REMARKS

The present amendment is in response to the Office Action dated December 16, 2004. Claims 1-31 are now present in this case. Claims 1, 4, 7, 9, 12, 13, 16, and 18 are amended.

The applicants wish to express their appreciation to the Examiner and the Examiner's supervisor for a telephone interview with the applicants' attorney on September 8, 2005. During that telephone interview, the finality of the present Office Action was discussed. The applicants respectfully request reconsideration of the finality of the present Office Action. In the prior Office Action, dated December 16, 2004, claims 1, 4, 6, 7, 9, 12, and 13 were indicated as rejected under 35 U.S.C. § 103 over U.S. Patent No. 6,301,514 to Canada et al. combined with U.S. Patent No. 5,289,160 to Fiorletta. (See December 16, 2004 Office Action, page 2.) Thus, the beginning of the detailed action indicates that the above-referenced claims are rejected in light of two references (*i.e.*, Canada and Fiorletta). During the telephone conference, the Examiner indicated that page 3 of the Office Action dated December 16, 2004 indicates a rejection of, by way of example, claims 4 and 12, over the combination of Canada, Fiorletta, and Japan Radio Company Ltd. However, page 3 of the Office Action dated December 16, 2004 merely states that "regarding claims 4 and 12, see claim 22 for the teaching of Canada and Japan Radio." (See December 16, 2004 Office Action, page 3.)

The applicants were completely confused by this statement as the detailed discussion of the rejection of claim 22 is based solely on Canada and Japan Radio. Thus, the Office Action of December 16, 2004 contains no discussion of the combination of Canada, Fiorletta, and Japan Radio in rejecting claims 4 and 12. Similarly, the Office Action of December 16, 2004 contains a single sentence stating that "regarding claims 6 and 7, see claim 29 for the teaching of Canada and Page below." (See December 16, 2004 Office Action, page 3.) Again, the rejection of claim 29 is based solely on Canada and Page. The Office Action contains no discussion of a rejection of claims 6 and 7 on the basis of Canada, Fiorletta, and Page. Finally, the Office Action of December 16, 2004 states that "regarding claim 13, see claim 18, for the teaching of Canada, Serikawa and Chikuma below." (See December 16, 2004 Office Action, page 3.) The detailed discussion of rejection of claim 18 is based solely

on Canada, Serikawa, and Chikuma. The Office Action contains no discussion of a rejection of claim 13 on the basis of Canada, Fiorletta, Serikawa, and Chikuma. For these reasons, the applicants were confused as to the actual nature of the rejection. The Examiner admitted that the Office Action "could have been more clear." It is noted that the current Office Action, dated July 12, 2005 contains the required detailed discussion of the rejections of claims 4 and 12 over the combination of Canada, Fiorletta, and Japan Radio. Claims 6 and 7 contains the required detailed rejection of claims 6 and 7 over the combination of Canada, Fiorletta, and Page, and the rejection of claim 13 over the combination of Canada, Fiorletta, Serikawa, and Chikuma. In light of the lack of detailed discussion of the actual basis for the rejection of these claims in the Office Action dated December 16, 2004, and the proper inclusion of these rejections in the Office Action dated July 12, 2005, the applicants respectfully request removal of the finality of the present Office Action to permit a response on the merits of these now detailed rejections.

The applicants note that the Office Action dated December 16, 2004 cites Japanese Patent Publication JP 353068103A to Chikuma and Japanese Patent Publication JP 10303796A to Japan Radio as a basis for rejecting some claims. Although both references are Japanese patent publications, PTO Form 892 lists the Japan Radio document as a non-patent document. Despite citing the patent publications as prior art, the Office Action relies solely on the English language abstract as the basis for rejecting a number of claims. Applicants wish to note that reliance on an English language abstract is inappropriate where both the abstract and the underlying document are prior art. (MPEP § 706.02 II.) In light of the rejection of a large number of claims based on brief English language abstracts, the applicants respectfully request that the Examiner rely on the underlying document as clearly preferred in MPEP § 706.02 II.

The importance of relying on the underlying document is even more important when considering that claims 2, 3, 5, 8, 10, 11, and 13-21 are rejected over a combination of references including the English language abstract of Japanese Patent No. JP 353068103 A to Chikuma. It should be noted that 15 claims are rejected on the basis of a single English language sentence of a Japanese patent publication.

Furthermore, the Office Action makes incorrect statements regarding the one sentence abstract. The Office Action states, on page 8, that Chikuma "teaches polling the wireless transceiver unit for information in response to detecting that the power failure has occurred." This is incorrect. Chikuma does not ever use the phrase "wireless transceiver unit." It is impossible to determine whether Chikuma even applies to a wireless system or not based on the single English language sentence. In addition, Chikuma states that "accumulated data and the specific signal" are transmitted to the master station "with the reception of the polling signal when power is failed in the slave station." This does not teach or suggest that the master station has detected power failure that results in polling, as asserted in the Office Action. Chikuma does not state that the polling signal is sent in response to the detection of a power failure in the slave station, but merely describes the action taken by the slave station if the polling signal is received when power has failed in the slave station. Thus, Chikuma describes the response of the slave station rather than a detection of a power failure by the master station that results in a polling signal. Given the broad reliance and incorrect interpretation of the single English language sentence abstract, the applicants respectfully request removal of Chikuma as a reference or, that the Examiner rely on the underlying document in accordance with MPEP § 706.02 II.

Similarly, PTO Form 892 accompanying the Office Action of December 16, 2004 cites Japan Radio patent publication, but relies only on the English language abstract. As noted above with respect to the reference by Chikuma, the Patent Office Rules indicate a strong preference for relying on the underlying publication rather than the English language abstract when both are considered prior art. The importance of providing the underlying document is further emphasized by the mischaracterization of the English language abstract. On page 16 of the present Office Action, the rejection appears to be based on a short phrase in the title rather than the abstract itself. However, a reading of the abstract in its entirety clearly indicates that the substation receives polling signals from the main station irrespective of whether there has been a power failure at the substation. Indeed, the abstract describes three different response scenarios. In the first response scenario no failure is detected at the substation and the substation sends data to the main station as a dummy signal. When a failure is

detected in the substation that stores data, a second type of response is transmitted to the main station. When a failure is detected at the substation that does not hold data, a third type of response is transmitted to the main station. Thus, the abstract of Japan Radio is clearly directed to different types of response messages that are sent when a polling signal is received from the main station. This teaches directly away from the concept of the polling signal being sent in response to the detection of a failure, as characterized on page 16 of the Office Action. In view of the strong reliance on a phrase in a title of an abstract, it is important that the rejection be based on the underlying document so that the true nature of the reference may be understood by the Examiner and the applicants.

Claims 1 and 9 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Canada and Fiorletta. The applicants have amended claims 1 and 9 to more clearly recite the nature of the claimed method. In the wireless communication network of claims 1 and 9, a wireless transceiver unit and a wireless base unit are capable of communication over a wireless control channel and a wireless data traffic channel. The method of claim 1 recites *inter alia* "receiving an information request message over the control channel" as well as "sending information over the control channel in response to the information request message."

It should be noted that Canada does not teach or suggest any wireless system that has both a control channel and a data traffic channel and does not teach or suggest receiving information request messages over a control channel or sending information over the control channel in response to the information request message, as recited in claim 1. Fiorletta does not disclose a network at all and does not teach or suggest any communication over a control channel differentiated from a data traffic channel. Thus, the combination of Canada and Fiorletta do not suggest the method of claim 1. Accordingly, claim 1 is clearly allowable over the combination of Canada and Fiorletta. Claims 2-8 are also allowable in view of the fact that they depend from claim 1, and further in view of the recitation in each of those claims.

Claim 9 is a method claim and recites *inter alia* "sending an information request message over the control channel" as well as "receiving information over the control channel in response to the information request message." As discussed above

with respect to claim 1, the combination of Canada and Fiorletta do not teach or suggest any communication network in which messages are sent over a control channel as opposed to the data traffic channel. Accordingly, claim 9 is clearly allowable over the combination of Canada and Fiorletta. Claims 10-17 are also allowable in view of the fact that they depend from claim 9, and further in view of the recitation in each of those claims.

Claims 18-21 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Canada, Serikawa, and Chikuma. The applicants respectfully traverse this rejection and request reconsideration. The Office Action correctly states that Canada does not disclose tearing down a data traffic channel but incorrectly asserts that Serikawa teaches such a process. The sections of Serikawa cited in the Office Action do not teach or suggest "tearing down a wireless data traffic channel used by the wireless transceiver unit in response to detecting that the power failure has occurred," such as recited in claim 18. The Office Action cites column 36, lines 49-58, which refer to inhibiting transmission on certain channels when a power failure has ended so as to prevent possible collisions that may occur when multiple devices are performing a registration process. This does not teach or suggest tearing down a data traffic channel in response to a power failure detection. The other portion of Serikawa, column 19, line 17 to column 20, line 1, refers to normal operation of a device and is unrelated to the detection of any power failure, such as recited in claim 18. Thus, the combination of Canada and Serikawa do not suggest detecting a power failure and tearing down a wireless data traffic channel in response to the power failure detection. The Office Action further states that Chikuma "teaches polling the wireless transceiver unit for information in response to detecting that the power failure has occurred." (See Office Action, page 8.) That is incorrect. As noted above, the one sentence English abstract in Chikuma never refers to a wireless transceiver unit. Furthermore, Chikuma does not teach polling anything in response to detecting that power failure has occurred. Rather, the abstract in Chikuma describes the response to the polling signal if power has failed in a slave station. Specifically, Chikuma discloses "transmitting the accumulated data and the specific signal to the master station with the reception of the polling signal when the power is failed in the slave station." This describes a response

to a polling signal, but does not teach or suggest that the polling occurs in response to detecting a power failure, as recited in claim 18. Accordingly, claim 18 is clearly allowable over the combination of Canada, Serikawa, and Chikuma. Claims 19-21 are also allowable in view of the fact that they depend from claim 18, and further in view of the recitation in each of those claims.

Claims 22-25 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Canada and Japan Radio. The applicants respectfully traverse this rejection. The Office Action admits that Canada does not teach detecting, on a data traffic channel, the communication failure involving a wireless transceiver unit or polling the wireless transceiver unit for information in response to detecting the communication failure. However, the Office Action incorrectly states that Japan Radio discloses such a method and relies on a short phrase in the title in support of its assertion. In the abstract, the substation always sends a response signal in response to polling from a main station. The response signal includes a dummy signal when no failure is detected and includes data transmitted along with the monitoring signal if a failure is detected. However, this does not teach the step of polling in response to detecting the communication failure on the data traffic channel, as recited in claim 22. That is, Japan Radio responds to polling signals irrespective of detection of the failure. It is the data content in the response signal that differs if a failure has been detected. It is noted that the Office Action, on page 16, partially quotes the title section of the abstract and thus mischaracterizes both the title section and the abstract. The polling signal is not transmitted "when failure is detected, as suggested in the Office Action. Rather, a complete reading of the title and abstract clearly shows that a response signal is also sent when no failure is detected. The abstract describes the nature of the response signal when no failure is detected, when a failure is detected and the substation has data, as well as a condition where a failure is detected and the substation does not have data. However, in each of these scenarios, the substation sends a response to the polling signal. There is nothing to suggest that the polling signal itself is sent in response to a failure detection, as recited in claim 22. Accordingly, claim 22 is clearly allowable over the combination of Canada and Japan Radio. Claims 23-25 are also

allowable in view of the fact that they depend from claim 22, and further in view of the recitation in each of those claims.

Claims 26-28 stand rejected under 35 U.S.C. § 103 as unpatentable over the combination of Canada and U.S. Patent No. 6,108,785 to Poisner. The applicants respectfully traverse this rejection. The Office Action states that Canada discloses "receiving information from each available wireless transceiver unit at random points in time" and cites column 14, lines 14-17 as supporting that assertion. (See Office Action, page 11.) This is incorrect. The cited section of Canada describes a device installation process and merely states that the device installation process can be terminated and resumed at any time. This does not suggest receiving data from wireless transceiver units "at random points in time over a shared channel in response to sending the information request message," as recited in claim 26. (Emphasis added.) That is, resuming installation of a device at any point in time is not suggestive of transmitting a response to an information request message at a random point in time, as recited in claim 26. The Office Action cites Poisner as teaching receiving information in response to sending the information request message. As noted in the response filed on March 16, 2005, the Examiner has not established a *prima facie* case of obviousness in that there is no suggestion for combining these references. Canada and Poisner are directed to totally different art classifications and fields of search. The present Office Action has ignored this failure to establish a *prima facie* case of obviousness and cites nothing within these references that suggests such combination. The Office Action, on page 16, states that the applicant "cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references." (See Office Action, page 16.) However, the prior response asserted that there is no teaching or suggestion for the combination of references. Accordingly, claim 26 is allowable over the combination of Canada and Poisner. Claims 27 and 28 are also allowable in view of the fact that they depend from claim 26, and further in view of the recitation in each of those claims.

Claims 29-31 stand rejected under 35 U.S.C. § 103 as unpatentable over the combination of Canada and U.S. Patent No. 6,594,284 to Page et al. The applicants respectfully traverse this rejection. The Office Action asserts that Canada

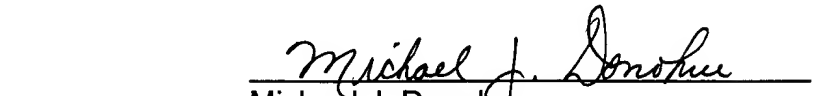
discloses delaying for a random period of time and cites column 14, lines 14-17 in support of that assertion. However, as noted above, the cited section of Canada merely states that device installation can be terminated or resumed at any time. This does not suggest delaying for a random period of time in responding to a message request. The Office Action subsequently states, on the same page, that Canada does not specifically disclose delaying for a period of time in response to receiving the information request message. Thus, the Office Action appears to contradict itself by stating that Canada first teaches such a random delay and then saying that Canada does not disclose such a delay. The applicants believe the second assertion is correct (*i.e.*, that Canada does not disclose delaying for a random period of time). The Office Action further incorrectly states that Page teaches delaying for a random period of time and asserts that it would be obvious to combine the teaching of Page into the system of Canada "in order to centralize equalization of delays from a plurality of network nodes to a central controller." (See Office Action, page 12.) However, claim 29 does not recite any equalization of delays. The Office Action is, in fact, stating the purpose of Page in measuring delays in a network in order to compensate for transmission delays and allow proper synchronization of the network. The delays referred to in Page are not random at all. Random delays, such as suggested by the Office Action, would result in ineffective network synchronization. Page describes a technique for precisely measuring a response delay from a central node to a remote unit. A random delay in response by the remote unit would totally destroy network synchronization. The delays are recorded by the central system and used for compensation in a network synchronization. Thus, Page does not teach delaying for a random period of time. The combination of Page and Canada do not teach or suggest delaying for a random period of time, as recited in claim 29. Accordingly, claim 29 is clearly allowable over the combination of Canada and Page. Claims 30 and 31 are also allowable in view of the fact that they depend from claim 29, and further in view of the recitation in each of those claims.

In view of the above amendments and remarks, reconsideration of the subject application and its allowance are kindly requested. In an effort to advance

prosecution of this case, the Examiner is invited to contact the undersigned at (206) 628-7640.

Respectfully submitted,

Davis Wright Tremaine LLP



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